

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1006

Chapter 197, Laws of 1999

(partial veto)

56th Legislature
1999 Regular Session

DRUG OFFENDERS--SENTENCING

EFFECTIVE DATE: 7/25/99

Passed by the House April 23, 1999
Yeas 96 Nays 0

CLYDE BALLARD
Speaker of the House of Representatives

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate April 12, 1999
Yeas 43 Nays 3

BRAD OWEN
President of the Senate

Approved May 7, 1999, with the
exception of section 8, which is
vetoed.

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

We, Dean R. Foster and Timothy A. Martin, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1006** as passed by the House of Representatives and the Senate on the dates hereon set forth.

DEAN R. FOSTER
Chief Clerk

TIMOTHY A. MARTIN
Chief Clerk

FILED
May 7, 1999 - 3:35 p.m.

**Secretary of State
State of Washington**

1 (3) "Community corrections officer" means an employee of the
2 department who is responsible for carrying out specific duties in
3 supervision of sentenced offenders and monitoring of sentence
4 conditions.

5 (4) "Community custody" means that portion of an inmate's sentence
6 of confinement in lieu of earned early release time or imposed pursuant
7 to RCW 9.94A.120 (6), (8), or (10) served in the community subject to
8 controls placed on the inmate's movement and activities by the
9 department of corrections.

10 (5) "Community placement" means that period during which the
11 offender is subject to the conditions of community custody and/or
12 postrelease supervision, which begins either upon completion of the
13 term of confinement (postrelease supervision) or at such time as the
14 offender is transferred to community custody in lieu of earned early
15 release. Community placement may consist of entirely community
16 custody, entirely postrelease supervision, or a combination of the two.

17 (6) "Community service" means compulsory service, without
18 compensation, performed for the benefit of the community by the
19 offender.

20 (7) "Community supervision" means a period of time during which a
21 convicted offender is subject to crime-related prohibitions and other
22 sentence conditions imposed by a court pursuant to this chapter or RCW
23 16.52.200(6) or 46.61.524. For first-time offenders, the supervision
24 may include crime-related prohibitions and other conditions imposed
25 pursuant to RCW 9.94A.120(5). Where the court finds that any offender
26 has a chemical dependency that has contributed to his or her offense,
27 the conditions of supervision may, subject to available resources,
28 include treatment. For purposes of the interstate compact for out-of-
29 state supervision of parolees and probationers, RCW 9.95.270, community
30 supervision is the functional equivalent of probation and should be
31 considered the same as probation by other states.

32 (8) "Confinement" means total or partial confinement as defined in
33 this section.

34 (9) "Conviction" means an adjudication of guilt pursuant to Titles
35 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
36 acceptance of a plea of guilty.

37 (10) "Court-ordered legal financial obligation" means a sum of
38 money that is ordered by a superior court of the state of Washington
39 for legal financial obligations which may include restitution to the

1 victim, statutorily imposed crime victims' compensation fees as
2 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
3 drug funds, court-appointed attorneys' fees, and costs of defense,
4 fines, and any other financial obligation that is assessed to the
5 offender as a result of a felony conviction. Upon conviction for
6 vehicular assault while under the influence of intoxicating liquor or
7 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the
8 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),
9 legal financial obligations may also include payment to a public agency
10 of the expense of an emergency response to the incident resulting in
11 the conviction, subject to the provisions in RCW 38.52.430.

12 (11) "Crime-related prohibition" means an order of a court
13 prohibiting conduct that directly relates to the circumstances of the
14 crime for which the offender has been convicted, and shall not be
15 construed to mean orders directing an offender affirmatively to
16 participate in rehabilitative programs or to otherwise perform
17 affirmative conduct. However, affirmative acts necessary to monitor
18 compliance with the order of a court may be required by the department.

19 (12) "Criminal history" means the list of a defendant's prior
20 convictions and juvenile adjudications, whether in this state, in
21 federal court, or elsewhere. The history shall include, where known,
22 for each conviction (a) whether the defendant has been placed on
23 probation and the length and terms thereof; and (b) whether the
24 defendant has been incarcerated and the length of incarceration.

25 (13) "Day fine" means a fine imposed by the sentencing judge that
26 equals the difference between the offender's net daily income and the
27 reasonable obligations that the offender has for the support of the
28 offender and any dependents.

29 (14) "Day reporting" means a program of enhanced supervision
30 designed to monitor the defendant's daily activities and compliance
31 with sentence conditions, and in which the defendant is required to
32 report daily to a specific location designated by the department or the
33 sentencing judge.

34 (15) "Department" means the department of corrections.

35 (16) "Determinate sentence" means a sentence that states with
36 exactitude the number of actual years, months, or days of total
37 confinement, of partial confinement, of community supervision, the
38 number of actual hours or days of community service work, or dollars or
39 terms of a legal financial obligation. The fact that an offender

1 through "earned early release" can reduce the actual period of
2 confinement shall not affect the classification of the sentence as a
3 determinate sentence.

4 (17) "Disposable earnings" means that part of the earnings of an
5 individual remaining after the deduction from those earnings of any
6 amount required by law to be withheld. For the purposes of this
7 definition, "earnings" means compensation paid or payable for personal
8 services, whether denominated as wages, salary, commission, bonuses, or
9 otherwise, and, notwithstanding any other provision of law making the
10 payments exempt from garnishment, attachment, or other process to
11 satisfy a court-ordered legal financial obligation, specifically
12 includes periodic payments pursuant to pension or retirement programs,
13 or insurance policies of any type, but does not include payments made
14 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
15 or Title 74 RCW.

16 (18) "Drug offense" means:

17 (a) Any felony violation of chapter 69.50 RCW except possession of
18 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
19 controlled substance (RCW 69.50.403);

20 (b) Any offense defined as a felony under federal law that relates
21 to the possession, manufacture, distribution, or transportation of a
22 controlled substance; or

23 (c) Any out-of-state conviction for an offense that under the laws
24 of this state would be a felony classified as a drug offense under (a)
25 of this subsection.

26 (19) "Escape" means:

27 (a) Escape in the first degree (RCW 9A.76.110), escape in the
28 second degree (RCW 9A.76.120), willful failure to return from furlough
29 (RCW 72.66.060), willful failure to return from work release (RCW
30 72.65.070), or willful failure to be available for supervision by the
31 department while in community custody (RCW 72.09.310); or

32 (b) Any federal or out-of-state conviction for an offense that
33 under the laws of this state would be a felony classified as an escape
34 under (a) of this subsection.

35 (20) "Felony traffic offense" means:

36 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
37 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
38 and-run injury-accident (RCW 46.52.020(4)); or

1 (b) Any federal or out-of-state conviction for an offense that
2 under the laws of this state would be a felony classified as a felony
3 traffic offense under (a) of this subsection.

4 (21) "Fines" means the requirement that the offender pay a specific
5 sum of money over a specific period of time to the court.

6 (22) "First-time offender" means any person who is convicted of a
7 felony (a) not classified as a violent offense or a sex offense under
8 this chapter, or (b) that is not the manufacture, delivery, or
9 possession with intent to manufacture or deliver a controlled substance
10 classified in Schedule I or II that is a narcotic drug or flunitrazepam
11 classified in Schedule IV, nor the manufacture, delivery, or possession
12 with intent to deliver methamphetamine, its salts, isomers, and salts
13 of its isomers as defined in RCW 69.50.206(d)(2), nor the selling for
14 profit of any controlled substance or counterfeit substance classified
15 in Schedule I, RCW 69.50.204, except leaves and flowering tops of
16 marihuana, who previously has never been convicted of a felony in this
17 state, federal court, or another state, and who has never participated
18 in a program of deferred prosecution for a felony offense.

19 (23) "Most serious offense" means any of the following felonies or
20 a felony attempt to commit any of the following felonies, as now
21 existing or hereafter amended:

22 (a) Any felony defined under any law as a class A felony or
23 criminal solicitation of or criminal conspiracy to commit a class A
24 felony;

25 (b) Assault in the second degree;

26 (c) Assault of a child in the second degree;

27 (d) Child molestation in the second degree;

28 (e) Controlled substance homicide;

29 (f) Extortion in the first degree;

30 (g) Incest when committed against a child under age fourteen;

31 (h) Indecent liberties;

32 (i) Kidnapping in the second degree;

33 (j) Leading organized crime;

34 (k) Manslaughter in the first degree;

35 (l) Manslaughter in the second degree;

36 (m) Promoting prostitution in the first degree;

37 (n) Rape in the third degree;

38 (o) Robbery in the second degree;

39 (p) Sexual exploitation;

1 (q) Vehicular assault;

2 (r) Vehicular homicide, when proximately caused by the driving of
3 any vehicle by any person while under the influence of intoxicating
4 liquor or any drug as defined by RCW 46.61.502, or by the operation of
5 any vehicle in a reckless manner;

6 (s) Any other class B felony offense with a finding of sexual
7 motivation, as "sexual motivation" is defined under this section;

8 (t) Any other felony with a deadly weapon verdict under RCW
9 9.94A.125;

10 (u) Any felony offense in effect at any time prior to December 2,
11 1993, that is comparable to a most serious offense under this
12 subsection, or any federal or out-of-state conviction for an offense
13 that under the laws of this state would be a felony classified as a
14 most serious offense under this subsection;

15 (v)(i) A prior conviction for indecent liberties under RCW
16 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
17 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
18 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
19 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

20 (ii) A prior conviction for indecent liberties under RCW
21 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
22 if: (A) The crime was committed against a child under the age of
23 fourteen; or (B) the relationship between the victim and perpetrator is
24 included in the definition of indecent liberties under RCW
25 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
26 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
27 through July 27, 1997.

28 (24) "Nonviolent offense" means an offense which is not a violent
29 offense.

30 (25) "Offender" means a person who has committed a felony
31 established by state law and is eighteen years of age or older or is
32 less than eighteen years of age but whose case is under superior court
33 jurisdiction under RCW 13.04.030 or has been transferred by the
34 appropriate juvenile court to a criminal court pursuant to RCW
35 13.40.110. Throughout this chapter, the terms "offender" and
36 "defendant" are used interchangeably.

37 (26) "Partial confinement" means confinement for no more than one
38 year in a facility or institution operated or utilized under contract
39 by the state or any other unit of government, or, if home detention or

1 work crew has been ordered by the court, in an approved residence, for
2 a substantial portion of each day with the balance of the day spent in
3 the community. Partial confinement includes work release, home
4 detention, work crew, and a combination of work crew and home detention
5 as defined in this section.

6 (27) "Persistent offender" is an offender who:

7 (a)(i) Has been convicted in this state of any felony considered a
8 most serious offense; and

9 (ii) Has, before the commission of the offense under (a) of this
10 subsection, been convicted as an offender on at least two separate
11 occasions, whether in this state or elsewhere, of felonies that under
12 the laws of this state would be considered most serious offenses and
13 would be included in the offender score under RCW 9.94A.360; provided
14 that of the two or more previous convictions, at least one conviction
15 must have occurred before the commission of any of the other most
16 serious offenses for which the offender was previously convicted; or

17 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
18 of a child in the first degree, child molestation in the first degree,
19 rape in the second degree, rape of a child in the second degree, or
20 indecent liberties by forcible compulsion; (B) murder in the first
21 degree, murder in the second degree, homicide by abuse, kidnapping in
22 the first degree, kidnapping in the second degree, assault in the first
23 degree, assault in the second degree, assault of a child in the first
24 degree, or burglary in the first degree, with a finding of sexual
25 motivation; or (C) an attempt to commit any crime listed in this
26 subsection (27)(b)(i); and

27 (ii) Has, before the commission of the offense under (b)(i) of this
28 subsection, been convicted as an offender on at least one occasion,
29 whether in this state or elsewhere, of an offense listed in (b)(i) of
30 this subsection. A conviction for rape of a child in the first degree
31 constitutes a conviction under subsection (27)(b)(i) only when the
32 offender was sixteen years of age or older when the offender committed
33 the offense. A conviction for rape of a child in the second degree
34 constitutes a conviction under subsection (27)(b)(i) only when the
35 offender was eighteen years of age or older when the offender committed
36 the offense.

37 (28) "Postrelease supervision" is that portion of an offender's
38 community placement that is not community custody.

1 (29) "Restitution" means the requirement that the offender pay a
2 specific sum of money over a specific period of time to the court as
3 payment of damages. The sum may include both public and private costs.
4 The imposition of a restitution order does not preclude civil redress.

5 (30) "Serious traffic offense" means:

6 (a) Driving while under the influence of intoxicating liquor or any
7 drug (RCW 46.61.502), actual physical control while under the influence
8 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
9 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
10 or

11 (b) Any federal, out-of-state, county, or municipal conviction for
12 an offense that under the laws of this state would be classified as a
13 serious traffic offense under (a) of this subsection.

14 (31) "Serious violent offense" is a subcategory of violent offense
15 and means:

16 (a) Murder in the first degree, homicide by abuse, murder in the
17 second degree, manslaughter in the first degree, assault in the first
18 degree, kidnapping in the first degree, or rape in the first degree,
19 assault of a child in the first degree, or an attempt, criminal
20 solicitation, or criminal conspiracy to commit one of these felonies;
21 or

22 (b) Any federal or out-of-state conviction for an offense that
23 under the laws of this state would be a felony classified as a serious
24 violent offense under (a) of this subsection.

25 (32) "Sentence range" means the sentencing court's discretionary
26 range in imposing a nonappealable sentence.

27 (33) "Sex offense" means:

28 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
29 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a
30 criminal attempt, criminal solicitation, or criminal conspiracy to
31 commit such crimes;

32 (b) A felony with a finding of sexual motivation under RCW
33 9.94A.127 or 13.40.135; or

34 (c) Any federal or out-of-state conviction for an offense that
35 under the laws of this state would be a felony classified as a sex
36 offense under (a) of this subsection.

37 (34) "Sexual motivation" means that one of the purposes for which
38 the defendant committed the crime was for the purpose of his or her
39 sexual gratification.

1 (35) "Total confinement" means confinement inside the physical
2 boundaries of a facility or institution operated or utilized under
3 contract by the state or any other unit of government for twenty-four
4 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

5 (36) "Transition training" means written and verbal instructions
6 and assistance provided by the department to the offender during the
7 two weeks prior to the offender's successful completion of the work
8 ethic camp program. The transition training shall include instructions
9 in the offender's requirements and obligations during the offender's
10 period of community custody.

11 (37) "Victim" means any person who has sustained emotional,
12 psychological, physical, or financial injury to person or property as
13 a direct result of the crime charged.

14 (38) "Violent offense" means:

15 (a) Any of the following felonies, as now existing or hereafter
16 amended: Any felony defined under any law as a class A felony or an
17 attempt to commit a class A felony, criminal solicitation of or
18 criminal conspiracy to commit a class A felony, manslaughter in the
19 first degree, manslaughter in the second degree, indecent liberties if
20 committed by forcible compulsion, kidnapping in the second degree,
21 arson in the second degree, assault in the second degree, assault of a
22 child in the second degree, extortion in the first degree, robbery in
23 the second degree, drive-by shooting, vehicular assault, and vehicular
24 homicide, when proximately caused by the driving of any vehicle by any
25 person while under the influence of intoxicating liquor or any drug as
26 defined by RCW 46.61.502, or by the operation of any vehicle in a
27 reckless manner;

28 (b) Any conviction for a felony offense in effect at any time prior
29 to July 1, 1976, that is comparable to a felony classified as a violent
30 offense in (a) of this subsection; and

31 (c) Any federal or out-of-state conviction for an offense that
32 under the laws of this state would be a felony classified as a violent
33 offense under (a) or (b) of this subsection.

34 (39) "Work crew" means a program of partial confinement consisting
35 of civic improvement tasks for the benefit of the community of not less
36 than thirty-five hours per week that complies with RCW 9.94A.135. The
37 civic improvement tasks shall have minimal negative impact on existing
38 private industries or the labor force in the county where the service
39 or labor is performed. The civic improvement tasks shall not affect

1 employment opportunities for people with developmental disabilities
2 contracted through sheltered workshops as defined in RCW 82.04.385.
3 Only those offenders sentenced to a facility operated or utilized under
4 contract by a county or the state are eligible to participate on a work
5 crew. Offenders sentenced for a sex offense as defined in subsection
6 (33) of this section are not eligible for the work crew program.

7 (40) "Work ethic camp" means an alternative incarceration program
8 designed to reduce recidivism and lower the cost of corrections by
9 requiring offenders to complete a comprehensive array of real-world job
10 and vocational experiences, character-building work ethics training,
11 life management skills development, substance abuse rehabilitation,
12 counseling, literacy training, and basic adult education.

13 (41) "Work release" means a program of partial confinement
14 available to offenders who are employed or engaged as a student in a
15 regular course of study at school. Participation in work release shall
16 be conditioned upon the offender attending work or school at regularly
17 defined hours and abiding by the rules of the work release facility.

18 (42) "Home detention" means a program of partial confinement
19 available to offenders wherein the offender is confined in a private
20 residence subject to electronic surveillance.

21 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.94A RCW
22 to read as follows:

23 (1) Where the court finds that the offender has a chemical
24 dependency that has contributed to his or her offense, the court may,
25 as a condition of the sentence and subject to available resources,
26 order the offender to participate in rehabilitative programs or
27 otherwise to perform affirmative conduct reasonably related to the
28 circumstances of the crime for which the offender has been convicted
29 and reasonably necessary or beneficial to the offender and the
30 community in rehabilitating the offender.

31 (2) This section applies to sentences which include any term other
32 than, or in addition to, a term of total confinement, including
33 suspended sentences.

34 **Sec. 3.** RCW 9.94A.110 and 1998 c 260 s 2 are each amended to read
35 as follows:

36 Before imposing a sentence upon a defendant, the court shall
37 conduct a sentencing hearing. The sentencing hearing shall be held

1 within forty court days following conviction. Upon the motion of
2 either party for good cause shown, or on its own motion, the court may
3 extend the time period for conducting the sentencing hearing.

4 Unless specifically waived by the court, the court shall order the
5 department to complete a chemical dependency screening report before
6 imposing a sentence upon a defendant who has been convicted of a
7 violation of the uniform controlled substances act under chapter 69.50
8 RCW or a criminal solicitation to commit such a violation under chapter
9 9A.28 RCW where the court finds that the offender has a chemical
10 dependency that has contributed to his or her offense. In addition,
11 the court shall, at the time of plea or conviction, order the
12 department to complete a presentence report before imposing a sentence
13 upon a defendant who has been convicted of a felony sexual offense.
14 The department of corrections shall give priority to presentence
15 investigations for sexual offenders. If the court determines that the
16 defendant may be a mentally ill person as defined in RCW 71.24.025,
17 although the defendant has not established that at the time of the
18 crime he or she lacked the capacity to commit the crime, was
19 incompetent to commit the crime, or was insane at the time of the
20 crime, the court shall order the department to complete a presentence
21 report before imposing a sentence.

22 The court shall consider the presentence reports, if any, including
23 any victim impact statement and criminal history, and allow arguments
24 from the prosecutor, the defense counsel, the offender, the victim, the
25 survivor of the victim, or a representative of the victim or survivor,
26 and an investigative law enforcement officer as to the sentence to be
27 imposed.

28 If the court is satisfied by a preponderance of the evidence that
29 the defendant has a criminal history, the court shall specify the
30 convictions it has found to exist. All of this information shall be
31 part of the record. Copies of all presentence reports presented to the
32 sentencing court and all written findings of facts and conclusions of
33 law as to sentencing entered by the court shall be sent to the
34 department by the clerk of the court at the conclusion of the
35 sentencing and shall accompany the offender if the offender is
36 committed to the custody of the department. Court clerks shall
37 provide, without charge, certified copies of documents relating to
38 criminal convictions requested by prosecuting attorneys.

1 **Sec. 4.** RCW 9.94A.120 and 1998 c 260 s 3 are each amended to read
2 as follows:

3 When a person is convicted of a felony, the court shall impose
4 punishment as provided in this section.

5 (1) Except as authorized in subsections (2), (4), (5), (6), and (8)
6 of this section, the court shall impose a sentence within the sentence
7 range for the offense.

8 (2) The court may impose a sentence outside the standard sentence
9 range for that offense if it finds, considering the purpose of this
10 chapter, that there are substantial and compelling reasons justifying
11 an exceptional sentence.

12 (3) Whenever a sentence outside the standard range is imposed, the
13 court shall set forth the reasons for its decision in written findings
14 of fact and conclusions of law. A sentence outside the standard range
15 shall be a determinate sentence.

16 (4) A persistent offender shall be sentenced to a term of total
17 confinement for life without the possibility of parole or, when
18 authorized by RCW 10.95.030 for the crime of aggravated murder in the
19 first degree, sentenced to death, notwithstanding the maximum sentence
20 under any other law. An offender convicted of the crime of murder in
21 the first degree shall be sentenced to a term of total confinement not
22 less than twenty years. An offender convicted of the crime of assault
23 in the first degree or assault of a child in the first degree where the
24 offender used force or means likely to result in death or intended to
25 kill the victim shall be sentenced to a term of total confinement not
26 less than five years. An offender convicted of the crime of rape in
27 the first degree shall be sentenced to a term of total confinement not
28 less than five years. The foregoing minimum terms of total confinement
29 are mandatory and shall not be varied or modified as provided in
30 subsection (2) of this section. In addition, all offenders subject to
31 the provisions of this subsection shall not be eligible for community
32 custody, earned early release time, furlough, home detention, partial
33 confinement, work crew, work release, or any other form of early
34 release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8),
35 or any other form of authorized leave of absence from the correctional
36 facility while not in the direct custody of a corrections officer or
37 officers during such minimum terms of total confinement except in the
38 case of an offender in need of emergency medical treatment or for the

1 purpose of commitment to an inpatient treatment facility in the case of
2 an offender convicted of the crime of rape in the first degree.

3 (5) In sentencing a first-time offender the court may waive the
4 imposition of a sentence within the sentence range and impose a
5 sentence which may include up to ninety days of confinement in a
6 facility operated or utilized under contract by the county and a
7 requirement that the offender refrain from committing new offenses.
8 The sentence may also include up to two years of community supervision,
9 which, in addition to crime-related prohibitions, may include
10 requirements that the offender perform any one or more of the
11 following:

12 (a) Devote time to a specific employment or occupation;

13 (b) Undergo available outpatient treatment for up to two years, or
14 inpatient treatment not to exceed the standard range of confinement for
15 that offense;

16 (c) Pursue a prescribed, secular course of study or vocational
17 training;

18 (d) Remain within prescribed geographical boundaries and notify the
19 court or the community corrections officer prior to any change in the
20 offender's address or employment;

21 (e) Report as directed to the court and a community corrections
22 officer; or

23 (f) Pay all court-ordered legal financial obligations as provided
24 in RCW 9.94A.030 and/or perform community service work.

25 (6)(a) An offender is eligible for the special drug offender
26 sentencing alternative if:

27 (i) ~~The offender is convicted of ((the manufacture, delivery, or~~
28 ~~possession with intent to manufacture or deliver a controlled substance~~
29 ~~classified in Schedule I or II that is a narcotic drug or a felony that~~
30 ~~is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt,~~
31 ~~criminal solicitation, or criminal conspiracy to commit such crimes,))~~
32 a felony that is not a violent offense or sex offense and the violation
33 does not involve a sentence enhancement under RCW 9.94A.310 (3) or (4);

34 (ii) The offender has no current or prior convictions for a
35 ~~((felony))~~ sex offense or violent offense in this state, another state,
36 or the United States; ~~((and))~~

37 (iii) For a violation of the uniform controlled substances act
38 under chapter 69.50 RCW or a criminal solicitation to commit such a
39 violation under chapter 9A.28 RCW, the offense involved only a small

1 quantity of the particular controlled substance as determined by the
2 judge upon consideration of such factors as the weight, purity,
3 packaging, sale price, and street value of the controlled substance;
4 and

5 (iv) The offender has not been found by the United States attorney
6 general to be subject to a deportation detainer or order.

7 (b) If the ~~((midpoint of the))~~ standard range is greater than one
8 year and the sentencing judge determines that the offender is eligible
9 for this option and that the offender and the community will benefit
10 from the use of the special drug offender sentencing alternative, the
11 judge may waive imposition of a sentence within the standard range and
12 impose a sentence that must include a period of total confinement in a
13 state facility for one-half of the midpoint of the standard range.
14 During incarceration in the state facility, offenders sentenced under
15 this subsection shall undergo a comprehensive substance abuse
16 assessment and receive, within available resources, treatment services
17 appropriate for the offender. The treatment services shall be designed
18 by the division of alcohol and substance abuse of the department of
19 social and health services, in cooperation with the department of
20 corrections. ~~((If the midpoint of the standard range is twenty four~~
21 ~~months or less, no more than three months of the sentence may be served~~
22 ~~in a work release status.))~~

23 The court shall also impose ~~((one year of concurrent community~~
24 ~~custody and community supervision that))~~:

25 (i) The remainder of the midpoint of the standard range as a term
26 of community custody which must include appropriate ~~((outpatient))~~
27 substance abuse treatment~~((7))~~ in a program that has been approved by
28 the division of alcohol and substance abuse of the department of social
29 and health services;

30 (ii) Crime-related prohibitions including a condition not to use
31 illegal controlled substances~~((7))~~; and

32 (iii) A requirement to submit to urinalysis or other testing to
33 monitor that status.

34 The court may prohibit the offender from using alcohol or
35 controlled substances and may require that the monitoring for
36 controlled substances be conducted by the department or by a treatment
37 alternatives to street crime program or a comparable court or agency-
38 referred program. The offender may be required to pay thirty dollars
39 per month while on community custody to offset the cost of monitoring.

1 In addition, the court shall impose three or more of the following
2 conditions:

3 ~~((i))~~ (A) Devote time to a specific employment or training;

4 ~~((ii))~~ (B) Remain within prescribed geographical boundaries and
5 notify the court or the community corrections officer before any change
6 in the offender's address or employment;

7 ~~((iii))~~ (C) Report as directed to a community corrections
8 officer;

9 ~~((iv))~~ (D) Pay all court-ordered legal financial obligations;

10 ~~((v))~~ (E) Perform community service work;

11 ~~((vi))~~ (F) Stay out of areas designated by the sentencing judge;

12 (G) Such other conditions as the court may require such as
13 affirmative conditions.

14 (c) If the offender violates any of the sentence conditions in (b)
15 of this subsection, ~~((the department shall impose sanctions~~
16 ~~administratively, with notice to the prosecuting attorney and the~~
17 ~~sentencing court. Upon motion of the court or the prosecuting~~
18 ~~attorney,))~~ a violation hearing shall be held by the ~~((court))~~
19 department unless waived by the offender. If the ~~((court))~~ department
20 finds that conditions have been willfully violated, the ~~((court may~~
21 ~~impose confinement consisting of up to the remaining one half of the~~
22 ~~midpoint of the standard range. All total confinement served during~~
23 ~~the period of community custody shall be credited to the offender,~~
24 ~~regardless of whether the total confinement is served as a result of~~
25 ~~the original sentence, as a result of a sanction imposed by the~~
26 ~~department, or as a result of a violation found by the court. The term~~
27 ~~of community supervision shall be tolled by any period of time served~~
28 ~~in total confinement as a result of a violation found by the court))~~
29 offender may be reclassified to serve the remaining balance of the
30 original sentence.

31 (d) The department shall determine the rules for calculating the
32 value of a day fine based on the offender's income and reasonable
33 obligations which the offender has for the support of the offender and
34 any dependents. These rules shall be developed in consultation with
35 the administrator for the courts, the office of financial management,
36 and the commission.

37 (e) An offender who fails to complete the special drug offender
38 sentencing alternative program or who is administratively terminated
39 from the program shall be reclassified to serve the unexpired term of

1 his or her sentence as ordered by the sentencing judge and shall be
2 subject to all rules relating to earned early release time. An
3 offender who violates any conditions of supervision as defined by the
4 department shall be sanctioned. Sanctions may include, but are not
5 limited to, reclassifying the offender to serve the unexpired term of
6 his or her sentence as ordered by the sentencing judge. If an offender
7 is reclassified to serve the unexpired term of his or her sentence, the
8 offender shall be subject to all rules relating to earned early release
9 time.

10 (7) If a sentence range has not been established for the
11 defendant's crime, the court shall impose a determinate sentence which
12 may include not more than one year of confinement, community service
13 work, a term of community supervision not to exceed one year, and/or
14 other legal financial obligations. The court may impose a sentence
15 which provides more than one year of confinement if the court finds,
16 considering the purpose of this chapter, that there are substantial and
17 compelling reasons justifying an exceptional sentence.

18 (8)(a)(i) When an offender is convicted of a sex offense other than
19 a violation of RCW 9A.44.050 or a sex offense that is also a serious
20 violent offense and has no prior convictions for a sex offense or any
21 other felony sex offenses in this or any other state, the sentencing
22 court, on its own motion or the motion of the state or the defendant,
23 may order an examination to determine whether the defendant is amenable
24 to treatment.

25 The report of the examination shall include at a minimum the
26 following: The defendant's version of the facts and the official
27 version of the facts, the defendant's offense history, an assessment of
28 problems in addition to alleged deviant behaviors, the offender's
29 social and employment situation, and other evaluation measures used.
30 The report shall set forth the sources of the evaluator's information.

31 The examiner shall assess and report regarding the defendant's
32 amenability to treatment and relative risk to the community. A
33 proposed treatment plan shall be provided and shall include, at a
34 minimum:

- 35 (A) Frequency and type of contact between offender and therapist;
36 (B) Specific issues to be addressed in the treatment and
37 description of planned treatment modalities;

1 (C) Monitoring plans, including any requirements regarding living
2 conditions, lifestyle requirements, and monitoring by family members
3 and others;

4 (D) Anticipated length of treatment; and

5 (E) Recommended crime-related prohibitions.

6 The court on its own motion may order, or on a motion by the state
7 shall order, a second examination regarding the offender's amenability
8 to treatment. The evaluator shall be selected by the party making the
9 motion. The defendant shall pay the cost of any second examination
10 ordered unless the court finds the defendant to be indigent in which
11 case the state shall pay the cost.

12 (ii) After receipt of the reports, the court shall consider whether
13 the offender and the community will benefit from use of this special
14 sex offender sentencing alternative and consider the victim's opinion
15 whether the offender should receive a treatment disposition under this
16 subsection. If the court determines that this special sex offender
17 sentencing alternative is appropriate, the court shall then impose a
18 sentence within the sentence range. If this sentence is less than
19 eleven years of confinement, the court may suspend the execution of the
20 sentence and impose the following conditions of suspension:

21 (A) The court shall place the defendant on community custody for
22 the length of the suspended sentence or three years, whichever is
23 greater, and require the offender to comply with any conditions imposed
24 by the department of corrections under subsection (14) of this section;

25 (B) The court shall order treatment for any period up to three
26 years in duration. The court in its discretion shall order outpatient
27 sex offender treatment or inpatient sex offender treatment, if
28 available. A community mental health center may not be used for such
29 treatment unless it has an appropriate program designed for sex
30 offender treatment. The offender shall not change sex offender
31 treatment providers or treatment conditions without first notifying the
32 prosecutor, the community corrections officer, and the court, and shall
33 not change providers without court approval after a hearing if the
34 prosecutor or community corrections officer object to the change. In
35 addition, as conditions of the suspended sentence, the court may impose
36 other sentence conditions including up to six months of confinement,
37 not to exceed the sentence range of confinement for that offense,
38 crime-related prohibitions, and requirements that the offender perform
39 any one or more of the following:

1 (I) Devote time to a specific employment or occupation;

2 (II) Remain within prescribed geographical boundaries and notify
3 the court or the community corrections officer prior to any change in
4 the offender's address or employment;

5 (III) Report as directed to the court and a community corrections
6 officer;

7 (IV) Pay all court-ordered legal financial obligations as provided
8 in RCW 9.94A.030, perform community service work, or any combination
9 thereof; or

10 (V) Make recoupment to the victim for the cost of any counseling
11 required as a result of the offender's crime; and

12 (C) Sex offenders sentenced under this special sex offender
13 sentencing alternative are not eligible to accrue any earned early
14 release time while serving a suspended sentence.

15 (iii) The sex offender therapist shall submit quarterly reports on
16 the defendant's progress in treatment to the court and the parties.
17 The report shall reference the treatment plan and include at a minimum
18 the following: Dates of attendance, defendant's compliance with
19 requirements, treatment activities, the defendant's relative progress
20 in treatment, and any other material as specified by the court at
21 sentencing.

22 (iv) At the time of sentencing, the court shall set a treatment
23 termination hearing for three months prior to the anticipated date for
24 completion of treatment. Prior to the treatment termination hearing,
25 the treatment professional and community corrections officer shall
26 submit written reports to the court and parties regarding the
27 defendant's compliance with treatment and monitoring requirements, and
28 recommendations regarding termination from treatment, including
29 proposed community supervision conditions. Either party may request
30 and the court may order another evaluation regarding the advisability
31 of termination from treatment. The defendant shall pay the cost of any
32 additional evaluation ordered unless the court finds the defendant to
33 be indigent in which case the state shall pay the cost. At the
34 treatment termination hearing the court may: (A) Modify conditions of
35 community custody, and either (B) terminate treatment, or (C) extend
36 treatment for up to the remaining period of community custody.

37 (v) If a violation of conditions occurs during community custody,
38 the department shall either impose sanctions as provided for in RCW
39 9.94A.205(2)(a) or refer the violation to the court and recommend

1 revocation of the suspended sentence as provided for in (a)(vi) of this
2 subsection.

3 (vi) The court may revoke the suspended sentence at any time during
4 the period of community custody and order execution of the sentence if:
5 (A) The defendant violates the conditions of the suspended sentence, or
6 (B) the court finds that the defendant is failing to make satisfactory
7 progress in treatment. All confinement time served during the period
8 of community custody shall be credited to the offender if the suspended
9 sentence is revoked.

10 (vii) Except as provided in (a)(viii) of this subsection, after
11 July 1, 1991, examinations and treatment ordered pursuant to this
12 subsection shall only be conducted by sex offender treatment providers
13 certified by the department of health pursuant to chapter 18.155 RCW.

14 (viii) A sex offender therapist who examines or treats a sex
15 offender pursuant to this subsection (8) does not have to be certified
16 by the department of health pursuant to chapter 18.155 RCW if the court
17 finds that: (A) The offender has already moved to another state or
18 plans to move to another state for reasons other than circumventing the
19 certification requirements; (B) no certified providers are available
20 for treatment within a reasonable geographical distance of the
21 offender's home; and (C) the evaluation and treatment plan comply with
22 this subsection (8) and the rules adopted by the department of health.

23 (ix) For purposes of this subsection (8), "victim" means any person
24 who has sustained emotional, psychological, physical, or financial
25 injury to person or property as a result of the crime charged.
26 "Victim" also means a parent or guardian of a victim who is a minor
27 child unless the parent or guardian is the perpetrator of the offense.

28 (x) If the defendant was less than eighteen years of age when the
29 charge was filed, the state shall pay for the cost of initial
30 evaluation and treatment.

31 (b) When an offender commits any felony sex offense on or after
32 July 1, 1987, and is sentenced to a term of confinement of more than
33 one year but less than six years, the sentencing court may, on its own
34 motion or on the motion of the offender or the state, request the
35 department of corrections to evaluate whether the offender is amenable
36 to treatment and the department may place the offender in a treatment
37 program within a correctional facility operated by the department.

38 Except for an offender who has been convicted of a violation of RCW
39 9A.44.040 or 9A.44.050, if the offender completes the treatment program

1 before the expiration of his or her term of confinement, the department
2 of corrections may request the court to convert the balance of
3 confinement to community supervision and to place conditions on the
4 offender including crime-related prohibitions and requirements that the
5 offender perform any one or more of the following:

6 (i) Devote time to a specific employment or occupation;

7 (ii) Remain within prescribed geographical boundaries and notify
8 the court or the community corrections officer prior to any change in
9 the offender's address or employment;

10 (iii) Report as directed to the court and a community corrections
11 officer;

12 (iv) Undergo available outpatient treatment.

13 If the offender violates any of the terms of his or her community
14 supervision, the court may order the offender to serve out the balance
15 of his or her community supervision term in confinement in the custody
16 of the department of corrections.

17 Nothing in this subsection (8)(b) shall confer eligibility for such
18 programs for offenders convicted and sentenced for a sex offense
19 committed prior to July 1, 1987. This subsection (8)(b) does not apply
20 to any crime committed after July 1, 1990.

21 (c) Offenders convicted and sentenced for a sex offense committed
22 prior to July 1, 1987, may, subject to available funds, request an
23 evaluation by the department of corrections to determine whether they
24 are amenable to treatment. If the offender is determined to be
25 amenable to treatment, the offender may request placement in a
26 treatment program within a correctional facility operated by the
27 department. Placement in such treatment program is subject to
28 available funds.

29 (9)(a) When a court sentences a person to a term of total
30 confinement to the custody of the department of corrections for an
31 offense categorized as a sex offense or a serious violent offense
32 committed after July 1, 1988, but before July 1, 1990, assault in the
33 second degree, assault of a child in the second degree, any crime
34 against a person where it is determined in accordance with RCW
35 9.94A.125 that the defendant or an accomplice was armed with a deadly
36 weapon at the time of commission, or any felony offense under chapter
37 69.50 or 69.52 RCW not sentenced under subsection (6) of this section,
38 committed on or after July 1, 1988, the court shall in addition to the
39 other terms of the sentence, sentence the offender to a one-year term

1 of community placement beginning either upon completion of the term of
2 confinement or at such time as the offender is transferred to community
3 custody in lieu of earned early release in accordance with RCW
4 9.94A.150 (1) and (2). When the court sentences an offender under this
5 subsection to the statutory maximum period of confinement then the
6 community placement portion of the sentence shall consist entirely of
7 such community custody to which the offender may become eligible, in
8 accordance with RCW 9.94A.150 (1) and (2). Any period of community
9 custody actually served shall be credited against the community
10 placement portion of the sentence.

11 (b) When a court sentences a person to a term of total confinement
12 to the custody of the department of corrections for an offense
13 categorized as a sex offense committed on or after July 1, 1990, but
14 before June 6, 1996, a serious violent offense, vehicular homicide, or
15 vehicular assault, committed on or after July 1, 1990, the court shall
16 in addition to other terms of the sentence, sentence the offender to
17 community placement for two years or up to the period of earned early
18 release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is
19 longer. The community placement shall begin either upon completion of
20 the term of confinement or at such time as the offender is transferred
21 to community custody in lieu of earned early release in accordance with
22 RCW 9.94A.150 (1) and (2). When the court sentences an offender under
23 this subsection to the statutory maximum period of confinement then the
24 community placement portion of the sentence shall consist entirely of
25 the community custody to which the offender may become eligible, in
26 accordance with RCW 9.94A.150 (1) and (2). Any period of community
27 custody actually served shall be credited against the community
28 placement portion of the sentence. Unless a condition is waived by the
29 court, the terms of community placement for offenders sentenced
30 pursuant to this section shall include the following conditions:

31 (i) The offender shall report to and be available for contact with
32 the assigned community corrections officer as directed;

33 (ii) The offender shall work at department of corrections-approved
34 education, employment, and/or community service;

35 (iii) The offender shall not possess or consume controlled
36 substances except pursuant to lawfully issued prescriptions;

37 (iv) The offender shall pay supervision fees as determined by the
38 department of corrections;

1 (v) The residence location and living arrangements are subject to
2 the prior approval of the department of corrections during the period
3 of community placement; and

4 (vi) The offender shall submit to affirmative acts necessary to
5 monitor compliance with the orders of the court as required by the
6 department.

7 (c) As a part of any sentence imposed under (a) or (b) of this
8 subsection, the court may also order any of the following special
9 conditions:

10 (i) The offender shall remain within, or outside of, a specified
11 geographical boundary;

12 (ii) The offender shall not have direct or indirect contact with
13 the victim of the crime or a specified class of individuals;

14 (iii) The offender shall participate in crime-related treatment or
15 counseling services;

16 (iv) The offender shall not consume alcohol;

17 (v) The offender shall comply with any crime-related prohibitions;

18 or

19 (vi) For an offender convicted of a felony sex offense against a
20 minor victim after June 6, 1996, the offender shall comply with any
21 terms and conditions of community placement imposed by the department
22 of corrections relating to contact between the sex offender and a minor
23 victim or a child of similar age or circumstance as a previous victim.

24 (d) Prior to transfer to, or during, community placement, any
25 conditions of community placement may be removed or modified so as not
26 to be more restrictive by the sentencing court, upon recommendation of
27 the department of corrections.

28 (10)(a) When a court sentences a person to the custody of the
29 department of corrections for an offense categorized as a sex offense
30 committed on or after June 6, 1996, the court shall, in addition to
31 other terms of the sentence, sentence the offender to community custody
32 for three years or up to the period of earned early release awarded
33 pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The
34 community custody shall begin either upon completion of the term of
35 confinement or at such time as the offender is transferred to community
36 custody in lieu of earned early release in accordance with RCW
37 9.94A.150 (1) and (2).

38 (b) Unless a condition is waived by the court, the terms of
39 community custody shall be the same as those provided for in subsection

1 (9)(b) of this section and may include those provided for in subsection
2 (9)(c) of this section. As part of any sentence that includes a term
3 of community custody imposed under this subsection, the court shall
4 also require the offender to comply with any conditions imposed by the
5 department of corrections under subsection (14) of this section.

6 (c) At any time prior to the completion of a sex offender's term of
7 community custody, if the court finds that public safety would be
8 enhanced, the court may impose and enforce an order extending any or
9 all of the conditions imposed pursuant to this section for a period up
10 to the maximum allowable sentence for the crime as it is classified in
11 chapter 9A.20 RCW, regardless of the expiration of the offender's term
12 of community custody. If a violation of a condition extended under
13 this subsection occurs after the expiration of the offender's term of
14 community custody, it shall be deemed a violation of the sentence for
15 the purposes of RCW 9.94A.195 and may be punishable as contempt of
16 court as provided for in RCW 7.21.040.

17 (11) If the court imposes a sentence requiring confinement of
18 thirty days or less, the court may, in its discretion, specify that the
19 sentence be served on consecutive or intermittent days. A sentence
20 requiring more than thirty days of confinement shall be served on
21 consecutive days. Local jail administrators may schedule court-ordered
22 intermittent sentences as space permits.

23 (12) If a sentence imposed includes payment of a legal financial
24 obligation, the sentence shall specify the total amount of the legal
25 financial obligation owed, and shall require the offender to pay a
26 specified monthly sum toward that legal financial obligation.
27 Restitution to victims shall be paid prior to any other payments of
28 monetary obligations. Any legal financial obligation that is imposed
29 by the court may be collected by the department, which shall deliver
30 the amount paid to the county clerk for credit. The offender's
31 compliance with payment of legal financial obligations shall be
32 supervised by the department for ten years following the entry of the
33 judgment and sentence or ten years following the offender's release
34 from total confinement. All monetary payments ordered shall be paid no
35 later than ten years after the last date of release from confinement
36 pursuant to a felony conviction or the date the sentence was entered
37 unless the superior court extends the criminal judgment an additional
38 ten years. If the legal financial obligations including crime victims'
39 assessments are not paid during the initial ten-year period, the

1 superior court may extend jurisdiction under the criminal judgment an
2 additional ten years as provided in RCW 9.94A.140, 9.94A.142, and
3 9.94A.145. If jurisdiction under the criminal judgment is extended,
4 the department is not responsible for supervision of the offender
5 during the subsequent period. Independent of the department, the party
6 or entity to whom the legal financial obligation is owed shall have the
7 authority to utilize any other remedies available to the party or
8 entity to collect the legal financial obligation. Nothing in this
9 section makes the department, the state, or any of its employees,
10 agents, or other persons acting on their behalf liable under any
11 circumstances for the payment of these legal financial obligations. If
12 an order includes restitution as one of the monetary assessments, the
13 county clerk shall make disbursements to victims named in the order.

14 (13) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a
15 court may not impose a sentence providing for a term of confinement or
16 community supervision or community placement which exceeds the
17 statutory maximum for the crime as provided in chapter 9A.20 RCW.

18 (14) All offenders sentenced to terms involving community
19 supervision, community service, community placement, or legal financial
20 obligation shall be under the supervision of the department of
21 corrections and shall follow explicitly the instructions and conditions
22 of the department of corrections. The department may require an
23 offender to perform affirmative acts it deems appropriate to monitor
24 compliance with the conditions of the sentence imposed.

25 (a) The instructions shall include, at a minimum, reporting as
26 directed to a community corrections officer, remaining within
27 prescribed geographical boundaries, notifying the community corrections
28 officer of any change in the offender's address or employment, and
29 paying the supervision fee assessment.

30 (b) For offenders sentenced to terms involving community custody
31 for crimes committed on or after June 6, 1996, the department may
32 include, in addition to the instructions in (a) of this subsection, any
33 appropriate conditions of supervision, including but not limited to,
34 prohibiting the offender from having contact with any other specified
35 individuals or specific class of individuals. The conditions
36 authorized under this subsection (14)(b) may be imposed by the
37 department prior to or during an offender's community custody term. If
38 a violation of conditions imposed by the court or the department
39 pursuant to subsection (10) of this section occurs during community

1 custody, it shall be deemed a violation of community placement for the
2 purposes of RCW 9.94A.207 and shall authorize the department to
3 transfer an offender to a more restrictive confinement status as
4 provided in RCW 9.94A.205. At any time prior to the completion of a
5 sex offender's term of community custody, the department may recommend
6 to the court that any or all of the conditions imposed by the court or
7 the department pursuant to subsection (10) of this section be continued
8 beyond the expiration of the offender's term of community custody as
9 authorized in subsection (10)(c) of this section.

10 The department may require offenders to pay for special services
11 rendered on or after July 25, 1993, including electronic monitoring,
12 day reporting, and telephone reporting, dependent upon the offender's
13 ability to pay. The department may pay for these services for
14 offenders who are not able to pay.

15 (15) All offenders sentenced to terms involving community
16 supervision, community service, or community placement under the
17 supervision of the department of corrections shall not own, use, or
18 possess firearms or ammunition. Offenders who own, use, or are found
19 to be in actual or constructive possession of firearms or ammunition
20 shall be subject to the appropriate violation process and sanctions.
21 "Constructive possession" as used in this subsection means the power
22 and intent to control the firearm or ammunition. "Firearm" as used in
23 this subsection means a weapon or device from which a projectile may be
24 fired by an explosive such as gunpowder.

25 (16) The sentencing court shall give the offender credit for all
26 confinement time served before the sentencing if that confinement was
27 solely in regard to the offense for which the offender is being
28 sentenced.

29 (17) A departure from the standards in RCW 9.94A.400 (1) and (2)
30 governing whether sentences are to be served consecutively or
31 concurrently is an exceptional sentence subject to the limitations in
32 subsections (2) and (3) of this section, and may be appealed by the
33 defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

34 (18) The court shall order restitution whenever the offender is
35 convicted of a felony that results in injury to any person or damage to
36 or loss of property, whether the offender is sentenced to confinement
37 or placed under community supervision, unless extraordinary
38 circumstances exist that make restitution inappropriate in the court's

1 judgment. The court shall set forth the extraordinary circumstances in
2 the record if it does not order restitution.

3 (19) As a part of any sentence, the court may impose and enforce an
4 order that relates directly to the circumstances of the crime for which
5 the offender has been convicted, prohibiting the offender from having
6 any contact with other specified individuals or a specific class of
7 individuals for a period not to exceed the maximum allowable sentence
8 for the crime, regardless of the expiration of the offender's term of
9 community supervision or community placement.

10 (20) The court may order an offender whose sentence includes
11 community placement or community supervision to undergo a mental status
12 evaluation and to participate in available outpatient mental health
13 treatment, if the court finds that reasonable grounds exist to believe
14 that the offender is a mentally ill person as defined in RCW 71.24.025,
15 and that this condition is likely to have influenced the offense. An
16 order requiring mental status evaluation or treatment must be based on
17 a presentence report and, if applicable, mental status evaluations that
18 have been filed with the court to determine the offender's competency
19 or eligibility for a defense of insanity. The court may order
20 additional evaluations at a later date if deemed appropriate.

21 (21) In any sentence of partial confinement, the court may require
22 the defendant to serve the partial confinement in work release, in a
23 program of home detention, on work crew, or in a combined program of
24 work crew and home detention.

25 (22) All court-ordered legal financial obligations collected by the
26 department and remitted to the county clerk shall be credited and paid
27 where restitution is ordered. Restitution shall be paid prior to any
28 other payments of monetary obligations.

29 **Sec. 5.** RCW 9.94A.137 and 1995 1st sp.s. c 19 s 20 are each
30 amended to read as follows:

31 (1)(a) An offender is eligible to be sentenced to a work ethic camp
32 if the offender:

33 (i) Is sentenced to a term of total confinement of not less than
34 ~~((sixteen))~~ twelve months and one day or more than thirty-six months;
35 ~~((and))~~

36 (ii) Has no current or prior convictions for any sex offenses or
37 for violent offenses ~~((other than drug offenses for manufacturing,~~

1 possession, delivery, or intent to deliver a controlled substance));
2 and

3 (iii) Is not currently subject to a sentence for, or being
4 prosecuted for, a violation of the uniform controlled substances act or
5 a criminal solicitation to commit such a violation under chapter 9A.28
6 or 69.50 RCW.

7 (b) The length of the work ethic camp shall be at least one hundred
8 twenty days and not more than one hundred eighty days. ~~((Because of~~
9 ~~the conversion ratio, earned early release time shall not accrue to~~
10 ~~offenders who successfully complete the program.))~~

11 (2) If the sentencing judge determines that the offender is
12 eligible for the work ethic camp and is likely to qualify under
13 subsection (3) of this section, the judge shall impose a sentence
14 within the standard range and may recommend that the offender serve the
15 sentence at a work ethic camp. ~~((The sentence shall provide that if~~
16 ~~the offender successfully completes the program, the department shall~~
17 ~~convert the period of work ethic camp confinement at the rate of one~~
18 ~~day of work ethic camp confinement to three days of total standard~~
19 ~~confinement.))~~ In sentencing an offender to the work ethic camp, the
20 court shall specify: (a) That upon completion of the work ethic camp
21 the offender shall be released on community custody for any remaining
22 time of total confinement; (b) the applicable conditions of supervision
23 on community custody status as required by RCW 9.94A.120(9)(b) and
24 authorized by RCW 9.94A.120(9)(c); and (c) that violation of the
25 conditions may result in a return to total confinement for the balance
26 of the offender's remaining time of confinement.

27 (3) The department shall place the offender in the work ethic camp
28 program, subject to capacity, unless: (a) The department determines
29 that the offender has physical or mental impairments that would prevent
30 participation and completion of the program; (b) the department
31 determines that the offender's custody level prevents placement in the
32 program; ~~((or))~~ (c) the offender refuses to agree to the terms and
33 conditions of the program; (d) the offender has been found by the
34 United States attorney general to be subject to a deportation detainer
35 or order; or (e) the offender has participated in the work ethic camp
36 program in the past.

37 (4) An offender who fails to complete the work ethic camp program,
38 who is administratively terminated from the program, or who otherwise
39 violates any conditions of supervision, as defined by the department,

1 shall be reclassified to serve the unexpired term of his or her
2 sentence as ordered by the sentencing judge and shall be subject to all
3 rules relating to earned early release time.

4 (5) During the last two weeks prior to release from the work ethic
5 camp program the department shall provide the offender with
6 comprehensive transition training.

7 **Sec. 6.** RCW 9.94A.380 and 1988 c 157 s 4 and 1988 c 155 s 3 are
8 each reenacted and amended to read as follows:

9 Alternatives to total confinement are available for offenders with
10 sentences of one year or less. These alternatives include the
11 following sentence conditions that the court may order as substitutes
12 for total confinement:

13 (1) One day of partial confinement may be substituted for one day
14 of total confinement;

15 (2) In addition, for offenders convicted of nonviolent offenses
16 only, eight hours of community service may be substituted for one day
17 of total confinement, with a maximum conversion limit of two hundred
18 forty hours or thirty days. Community service hours must be completed
19 within the period of community supervision or a time period specified
20 by the court, which shall not exceed twenty-four months, pursuant to a
21 schedule determined by the department; and

22 (3) For offenders convicted of nonviolent and nonsex offenses, the
23 court may authorize county jails to convert jail confinement to an
24 available county supervised community option and may require the
25 offender to perform affirmative conduct pursuant to section 2 of this
26 act.

27 For sentences of nonviolent offenders for one year or less, the
28 court shall consider and give priority to available alternatives to
29 total confinement and shall state its reasons in writing on the
30 judgment and sentence form if the alternatives are not used.

31 NEW SECTION. **Sec. 7.** The legislature recognizes the utility of
32 drug court programs in reducing recidivism and assisting the courts by
33 diverting potential offenders from the normal course of criminal trial
34 proceedings.

35 ****NEW SECTION. Sec. 8. A new section is added to chapter 10.01 RCW***
36 ***to read as follows:***

1 (1) *The superior and district courts of Washington may establish*
2 *drug court programs to accept offenders that have been diverted by the*
3 *courts from the normal course of prosecution for drug offenses.*

4 (2) *Pursuant to this section, "drug court" is defined as a program*
5 *that meets the criteria set forth in section 9 of this act.*

6 *Sec. 8 was vetoed. See message at end of chapter.

7 NEW SECTION. **Sec. 9.** A new section is added to chapter 2.28 RCW
8 to read as follows:

9 (1) Counties may establish and operate drug courts.

10 (2) For the purposes of this section, "drug court" means a court
11 that has special calendars or dockets designed to achieve a reduction
12 in recidivism and substance abuse among nonviolent, substance abusing
13 offenders by increasing their likelihood for successful rehabilitation
14 through early, continuous, and intense judicially supervised treatment;
15 mandatory periodic drug testing; and the use of appropriate sanctions
16 and other rehabilitation services.

17 (3) Any jurisdiction that seeks a state appropriation to fund a
18 drug court program must first:

19 (a) Exhaust all federal funding received from the office of
20 national drug control policy that is available to support the
21 operations of its drug court and associated services; and

22 (b) Match, on a dollar-for-dollar basis, state moneys allocated for
23 drug court programs with local resources. Moneys allocated by the
24 state must be used to supplement, not supplant, other federal, state,
25 and local funds for drug court operations and associated services.

26 NEW SECTION. **Sec. 10.** A new section is added to chapter 70.96A
27 RCW to read as follows:

28 The department shall contract with counties operating drug courts
29 and counties in the process of implementing new drug courts for the
30 provision of drug and alcohol treatment services.

31 NEW SECTION. **Sec. 11.** The department of corrections must develop
32 criteria for successful completion of the special drug offender
33 sentencing alternative program by December 31, 1999.

34 NEW SECTION. **Sec. 12.** The Washington state institute for public
35 policy, in consultation with the sentencing guidelines commission shall

1 evaluate the impact of implementing the drug offender options provided
2 for in RCW 9.94A.120(6). The commission shall submit a final report to
3 the legislature by December 1, 2004. The report shall describe the
4 changes in sentencing practices related to the use of punishment
5 options for drug offenders and include the impact of sentencing
6 alternatives on state prison populations, the savings in state
7 resources, the effectiveness of drug treatment services, and the impact
8 on recidivism rates.

9 NEW SECTION. **Sec. 13.** If specific funding for the purposes of
10 sections 7 through 12 of this act, referencing sections 7 through 12 of
11 this act by bill or chapter number, is not provided by June 30, 1999,
12 in the omnibus appropriations act, sections 7 through 12 of this act
13 are null and void.

14 NEW SECTION. **Sec. 14.** If any provision of this act or its
15 application to any person or circumstance is held invalid, the
16 remainder of the act or the application of the provision to other
17 persons or circumstances is not affected.

Passed the House April 23, 1999.

Passed the Senate April 12, 1999.

Approved by the Governor May 7, 1999, with the exception of certain
items that were vetoed.

Filed in Office of Secretary of State May 7, 1999.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 8,
3 Engrossed Second Substitute House Bill No. 1006 entitled:

4 "AN ACT Relating to sentencing for crimes involving drugs or
5 alcohol;"

6 Section 8 of E2SHB 1006 would authorize District and Superior
7 Courts to establish drug court programs for "offenders that have been
8 diverted by the courts from the normal course of prosecution for drug
9 offenses." This section is not necessary to the operation of the bill,
10 and violates the separation of powers doctrine. The courts, as a
11 separate branch of government, already have authority to establish
12 programs like these, and are in fact now operating them in several
13 counties. Additionally, including District Courts in this section
14 could imply that the state would fund drug court programs established
15 by those courts. Funding of District Court programs has not been
16 specifically discussed in the legislature. Finally, the reference in
17 section 8 to "drug offenders" could imply that state funding cannot be
18 provided to programs serving drug-addicted nonviolent property
19 offenders, as some now do.

1 For these reasons, I have vetoed section 8 of Engrossed Second
2 Substitute House Bill No. 1006.

3 With the exception of section 8, Engrossed Second Substitute House
4 Bill No. 1006 is approved."